



U.S. Department of Justice

*United States Attorney
Southern District of New York*

*86 Chambers Street, 3rd floor
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December 18, 2018

BY ECF

The Honorable Paul A. Engelmayer
United States District Judge
Thurgood Marshall United States Courthouse
40 Foley Square
New York, New York 10007

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Re: *ACLU, et al. v. DOD, et al.*, No. 17 Civ. 3391 (PAE)

Dear Judge Engelmayer:

I write respectfully to provide the Court with a further status update regarding Defendant the Central Intelligence Agency ("CIA"), *see* Dkt. No. 101, as well as to set forth a joint scheduling request on behalf of the parties. Since the last report, *id.*, the parties conferred about potential next steps in this matter, with respect to both CIA and the Department of Defense ("DOD") and Department of State ("DOS"), the two other remaining defendants in this matter. As to DOD, per the Court's instructions in its order dated November 7, 2018 (Dkt. No. 97), DOD completed its FOIA release of documents referred to it by CIA, and on December 12, 2018, Plaintiffs informed the Government that they intend to challenge withholdings of information pursuant to FOIA exemptions in six of those documents. Plaintiffs have also informed the Government that they will challenge CIA's withholding of other documents located during the CIA's searches but not referred to DOD. Finally, as the Court may recall, summary judgment briefing is pending regarding documents previously released by DOD and DOS; the Government filed its opening motion, and Plaintiffs filed their opposition and cross-motion. *See* Dkt. Nos. 74-79, 83-85.

The parties have conferred and agree that, in the interest of efficiency, all of Plaintiffs' pending challenges may be addressed in a single, new round of motion practice. Therefore, the parties jointly and respectfully request the Court's endorsement of the following proposals:

- The pending motions at Dkt. Nos. 74 and 83 be terminated;
- Defendants DOD, DOS, and CIA file their motion for summary judgment (35 pages) on February 8, 2019;

- Plaintiffs file their opposition and cross-motion (35 pages) on March 15, 2019;
- Defendants file their opposition and reply (25 pages) on April 5, 2019; and
- Plaintiffs file their reply (25 pages) on April 26, 2019.

We thank the Court for its consideration of this matter.

Respectfully submitted,

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12/20/18

Granted. In light of the parties' representations and agreement that plaintiffs' pending challenges are most efficiently addressed in a single round of new motion practices, the Court respectfully directs the Clerk of Court to deny the motions currently pending at docket entries 74 and 83, without prejudice to the parties to file new motions for summary judgment. The Court further orders defendants DOD, DOS, and CIA to file their motion for summary judgment, not to exceed 35 pages, on February 8, 2019. Plaintiffs are directed to file their opposition and cross-motion, not to exceed 35 pages, on March 15, 2019. Defendants shall file their opposition and reply, not to exceed 25 pages, on April 26, 2019. Plaintiffs shall file their reply, not to exceed 25 pages, on April 26, 2019.

SO ORDERED.

Paul A. Engelmayer
PAUL A. ENGELMAYER
United States District Judge